

HAYNES, Barton F.
Appl. No. 09/956,940
September 10, 2003

REMARKS/ARGUMENTS

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

The specification has been amended to update the status of the parent cases and to include sequence identifiers. The specification was amended on December 12, 2001 to include the Sequence Listing (a further copy of that Sequence Listing is attached). Entry of that Sequence Listing did not raise the issue of new matter as the sequence information contained therein is presented in the application as originally filed. A computer readable copy of the Sequence Listing submitted December 12, 2001 was filed in parent Application No. 08/015,987, filed February 10, 1993. The paper copy of the Sequence Listing submitted December 12, 2001 differs from the computer readable copy filed in the parent case only from the standpoint of details provided under the heading "General Information". Otherwise, the paper copy of the Sequence Listing submitted December 12, 2001 and the computer readable copy submitted in the parent case are the same. It is hereby requested that the computer readable copy of the Sequence Listing filed in connection with Application No. 08/015,987 be used in connection with the present case as well.

The claims have been revised to define the invention with additional clarity. Claim 25 has been amended to include a sequence identifier. The claims as presented, including new claims 32-34 (which read on the elected species), are fully supported by an

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enabling disclosure (note particularly pages 32 and 33 in connection with the revision of claims 16 and 22). Claims 1-15, 21 and 26-31 have been cancelled without prejudice.

Claims 18 and 22-25 stand rejected under 35 USC 112, first paragraph, as allegedly lacking written description. Withdrawal of the rejection is submitted to be in order for the reasons that follow.

The Examiner's assertions to the contrary, claim 18 is fully supported. The paragraph bridging pages 32 and 33 of the application describe "another use" of the F domain or the F-like domain derivatization of peptides and proteins, which use is the subject of the pending claims. It is absolutely clear on its face that the "derivatization" referred to is that described in the preceding pages of the specification and in the claims as originally filed. Page 1, lines 20-23, and page 6, lines 5-7, for example, as well as original claim 1, make abundantly clear the fact that the fusion domain can be conjugated C-terminal or N-terminal to the peptide/polypeptide/protein. Accordingly, no basis for the Examiner's rejection of claim 18 is seen.

As regards claim 22, the claim has been revised to include the language referred to by the Examiner on page 33 of the application.

As regards claims 23-25, the comments offered above in connection with claim 18 apply, with attention being directed to the disclosure at pages 32 and 33 and at page 8, lines 29-33, as well as original claims 4, 5 and 7.

In view of the above, reconsideration is requested.

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Claims 16-18 and 20-24 stand rejected under 35 USC 112, first paragraph, as allegedly lacking written description. Withdrawal of the rejection is submitted in order for the reasons that follow.

At the outset, Applicant directs attention to the fact that the subject invention relates not to a newly discovered gene but rather to a newly discovered method of facilitating transport into a cell of a therapeutic agent. Thus, the Examiner's reliance on Fiers, University of California, etc is not well founded.

Further, the subject specification makes it clear that Applicant had in his possession at the time of filing fusion domains in addition to that recited in claim 25. On pages 8 and 9 of the application, for example, Applicant teaches that hydrophobic peptides of a variety of specified lengths were contemplated, the sequence of the domain recited in claim 25 being merely an example.

Given the nature of the claimed invention and the teachings of the subject disclosure, it is submitted that the breadth provided by the phrase "an HIV fusion domain" is entirely appropriate.

Reconsideration is requested.

The Examiner's comments regarding the claimed priority are noted. That no response is provided here is not to be construed as an indication that Applicant agrees with the Examiner's position.

Claims 16-18, 20, 21 and 23-25 stand rejected under 35 USC 102(b) as allegedly being anticipated by Hart et al. Withdrawal of the rejection is submitted to be in order in

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view of the above-noted revision of claim 16 to relate to a method of facilitating entry of a therapeutic agent that functions intracellularly. Reconsideration is requested.

Claims 16-18, 20, 21, 23 and 24 stand rejected under 35 USC 102 as allegedly being anticipated by Helting et al. The rejection is traversed.

It is submitted that the claims as now presented are in no way anticipated by Helting et al. Further, attention is directed to the fact that the cited patent does not include Figure 6 which apparently depicted "fusion proteins" referred to in the paragraphs upon which the Examiner appears to rely.

Reconsideration is requested.

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: Mary J. Wilson
Mary J. Wilson
Reg. No. 32,955

MJW:tat
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100